

SENATE BILL No. 455

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-1-2.5-9; IC 10-2; IC 10-4.

Synopsis: Various Title 10 provisions. Specifies the criminal intent necessary to commit offenses concerning the criminal justice data division and the emergency management and disaster law. Defines "armory" for purposes of the Indiana military code. Provides that a person, to become an assistant adjutant general of the Indiana army national guard, must have at least six years of service as a commissioned officer, but that the service need not have been in the Indiana army national guard. Specifies that the state militia consists of persons at least 18 years of age instead of males between the ages of 18 and 45. Provides, for purposes of the law exempting an officer or enlisted man on duty in the Indiana national guard from arrest on any civil process, that: (1) an attachment for contempt for failure to obey the command of a subpoena to testify is a civil process; and (2) a citation for a traffic violation is not a civil process. Provides that if a county executive does not have a president, a member of the county executive appointed from its membership is a member of the county emergency management advisory council. Repeals the interstate civil defense and disaster compact and the interstate earthquake emergency compact. Makes conforming amendments.

Effective: July 1, 2003.

Kenley

January 21, 2003, read first time and referred to Committee on Judiciary.



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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 455

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-1-2.5-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. It is the intent of this
3 chapter to provide information and data with reference to the total
4 criminal justice system that will be equally beneficial to all officers,
5 agencies, and components of ~~said the~~ system so that each may better
6 perform ~~his or its~~ **their** respective duties for the overall improvement
7 of criminal justice. Rules ~~and regulations~~ adopted ~~pursuant to under~~
8 this chapter shall be drafted so as to express this intent. Any public
9 official required by ~~said the~~ rules ~~and regulations~~ to report to the
10 division who fails to comply with the requests of the superintendent for
11 ~~such the~~ information or data, or with the governing records and
12 systems and equipment and their maintenance may, at the discretion of
13 the director of the criminal justice planning agency, be denied the
14 benefits of the system until meeting minimum compliance with ~~said~~
15 ~~regulations. the rules.~~ An official who knowingly, **intentionally, or**
16 **recklessly** makes a false return of information to the division commits



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a Class A misdemeanor.

SECTION 2. IC 10-2-1-2 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 2. The definitions appearing in this
section shall apply to words in this article, unless otherwise apparent
from the context and are subject to organization modification as
adopted by regular army and regular air force troop structures which
are incorporated in this article by reference:

**"Armory" means real property and facilities located on the real
property that are used by the military or naval forces of the state
for drill, meeting, training, and rendezvous purposes.**

"National guard" means the Indiana army national guard and the
Indiana air national guard.

"Company", "troop", "battery", "squadron", "battalion", "air-group",
"regiment", "battle group", "wing", and "division", where referred to in
this article, shall have the same meaning as comparably used in the
national military establishment.

"Commanding officer" denotes a company, troop, battery, squadron,
battalion, air-group, regiment, battle group, wing, or division
commander.

"Court martial" means a military or naval court of justice for the
trial of cases within the jurisdiction of the armed forces of the state of
Indiana, as provided for in this article.

"Federally recognized national guard" denotes that portion of the
Indiana national guard which has met all the requirements for, and has
been recognized by, the national military establishment as a part of the
reserve components of the armed forces of the United States.

"General orders" shall mean the official instructions issued by the
military department of Indiana for the information and guidance of all
concerned.

"Headquarters" shall mean the office of the appropriate commander.

"National guard" may apply to the national guard of Indiana or the
national guard of the United States according to the tenor of the
appropriate section.

"Officer" shall mean commissioned officer, including warrant
officer, in the armed forces of the state of Indiana.

"Organization", where used in this article, may mean unit or
command.

"Regulations" shall mean the official rules of the appropriate
department.

"State and federal property" shall mean state property, real or
personal, owned by the state of Indiana or federal property owned by
the federal government and consigned to the state of Indiana for use in

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1 its armed forces.

2 "Unit" where used in this article applies to military complements of
3 a company, detachment, troop, battery, or any larger command
4 organization.

5 SECTION 3. IC 10-2-2-5 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2003]: Sec. 5. Two (2) assistant adjutants
7 general shall be appointed by the adjutant general to serve at the will
8 and pleasure of the adjutant general as follows:

9 (1) One (1) assistant adjutant general shall be appointed from the
10 Indiana army national guard, who shall be the chief of staff to the
11 adjutant general for all the Indiana army national guard forces.
12 This assistant adjutant general shall perform such duties as are
13 assigned by the adjutant general and shall be responsible for all
14 administrative and operational functions of the Indiana army
15 national guard. This assistant adjutant general shall be a person
16 who has had at least six (6) years service ~~in the Indiana army~~
17 ~~national guard as a commissioned officer~~ and shall have attained
18 the rank of major or above. No person shall be eligible for
19 appointment as such assistant adjutant general unless such person
20 is a member of the Indiana army national guard. This person shall
21 be a federally recognized officer and may hold the rank of
22 brigadier general or such other rank as may be authorized by the
23 table of organization for the army national guard.

24 (2) One (1) assistant adjutant general shall be appointed from the
25 Indiana air national guard, who shall be chief of staff to the
26 adjutant general for all the Indiana air national guard forces. This
27 assistant adjutant general shall perform such duties as are
28 assigned by the adjutant general and shall be responsible for
29 administrative and operational functions of the Indiana air
30 national guard. No person shall be eligible for appointment as
31 such assistant adjutant general unless such person is a member of
32 the Indiana air national guard with at least six (6) years service
33 as a commissioned officer ~~therein~~ and has attained the rank of major
34 or above. This person shall be a federally recognized officer, and
35 may hold the rank of brigadier general or such other rank as may
36 be authorized by the tables of organization for the air national
37 guard.

38 SECTION 4. IC 10-2-3-1 IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2003]: Sec. 1. Pursuant to article 12, section 1
40 of the constitution of Indiana, the militia ~~shall consist~~ **consists** of all
41 ~~able-bodied male~~ persons ~~between the ages of~~ **at least** eighteen (18)
42 ~~and forty-five (45) years of age~~ except ~~such as may be~~ **those persons**

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1 **who are** exempted by the laws of the United States or of this state. ~~and~~
 2 ~~said~~ **The** militia shall be divided into two (2) classes.

3 SECTION 5. IC 10-2-4-5 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a)** On days of military duty the
 5 national guard, called out by proper authority, and performing military
 6 duty, shall be considered to be under military discipline. ~~and no~~ **An**
 7 officer or enlisted person ~~shall~~ **may not** be subject to be arrested on
 8 any civil process during the time aforesaid.

9 **(b) For purposes of this section:**

10 **(1) an attachment for contempt for failure to obey the**
 11 **command of a subpoena to testify is a civil process; and**

12 **(2) a citation for a traffic violation is not a civil process.**

13 SECTION 6. IC 10-2-5-3 IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Fines may be collected in the
 15 following manner:

16 (1) By the retention of any pay or allowances due or to become
 17 due from the state. ~~of the United States.~~

18 (2) By commitment to a jail designated by the reviewing authority
 19 until such fine shall have been paid, or until one (1) day shall
 20 have been served for each one dollar (\$1) of the fine imposed.

21 (3) By payment to the treasurer of the county, who shall then
 22 forthwith transmit said sum to the treasurer of state. The treasurer
 23 of state shall then quarterly pay such sums to the armory board of
 24 the state of Indiana, and such sums are hereby appropriated
 25 continuously for the purposes of IC 10-2-2-16.5. It shall be
 26 sufficient to record upon the payroll opposite the name of the
 27 person fined a notation of the sentence of the court-martial and
 28 the date of approval of the sentence, together with the name and
 29 rank of the reviewing authority.

30 (b) Sentence of imprisonment imposed by the courts-martial during
 31 active service or at camps of instruction shall be carried out by
 32 confinement in a guardhouse, tent, or other places designated by the
 33 reviewing authority. Sentence of imprisonment imposed by
 34 courts-martial upon persons not in active service or at camps of
 35 instruction shall be carried out by confinement in a jail to be designated
 36 by the reviewing authority.

37 SECTION 7. IC 10-4-1-10 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Each political
 39 subdivision within this state shall be within the jurisdiction of and
 40 served by a department of emergency management or by an
 41 interjurisdictional agency responsible for disaster preparedness and
 42 coordination of response.

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(b) Each county shall maintain a county emergency management advisory council and a county emergency management organization or participate in an interjurisdictional disaster agency which, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

~~(c) In whatever county in this state a county emergency management advisory council does not exist by March 6, 1951, it is directed that a county emergency management advisory council be organized under the temporary chairmanship of the executive of the county seat, with the assistance of all other city and town executives in the county; the president of the county fiscal body; and the president of the county executive.~~

~~(d)~~ (c) The county emergency management advisory council shall consist of the following individuals or their designees:

(1) The president of the county executive **or, if the county executive does not have a president, a member of the county executive appointed from the membership of the county executive.**

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located within the county.

(5) Representatives of ~~such~~ private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate, or as may be added later by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

~~(e) Upon the organization of the county emergency management advisory council and the selection of a chairman from its membership, the organizing group shall be dissolved.~~

~~(f)~~ (d) The county emergency management advisory council shall exercise general supervision and control over the emergency management and disaster program of the county and shall select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who shall have direct responsibility for the organization, administration, and operation of the emergency management program in the county and shall be responsible to the chairman of the county emergency management advisory council.

~~(g)~~ (e) Any provision of this chapter or other law to the contrary

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notwithstanding, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political divisions if ~~he~~ **the governor** finds that the establishment and maintenance of an agency or participation in one is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services under other provisions of this chapter.

~~(h)~~ **(f)** Each political subdivision ~~which that~~ does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response, and recovery.

~~(i)~~ **(g)** The county emergency management and disaster director and personnel of the department may be provided with appropriate office space, furniture, vehicles, communications, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other county agencies.

~~(j)~~ **(h)** Each local or interjurisdictional agency shall prepare and keep current a local or interjurisdictional disaster emergency plan for its area.

~~(k)~~ **(i)** The local or interjurisdictional disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

~~(l)~~ **(j)** Each political subdivision may:

(1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster resulting from enemy attack; provide for a comprehensive insurance program for its emergency management volunteers; and direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set by the federal civil defense agency and the state emergency management agency;

(2) appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other emergency management and disaster workers;



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1 (3) establish a primary and one (1) or more secondary control
 2 centers to serve as command posts during an emergency;
 3 (4) subject to the order of the governor or the chief executive of
 4 the political subdivision, assign and make available for duty the
 5 employees, property, or equipment of the subdivision relating to
 6 fire fighting, engineering, rescue, health, medical and related
 7 services, police, transportation, construction, and similar items or
 8 services for emergency management and disaster purposes and
 9 within or outside of the physical limits of the subdivision; and
 10 (5) in the event of a national security emergency or state of
 11 emergency as provided in section 7 of this chapter, waive
 12 procedures and formalities otherwise required by law pertaining
 13 to the performance of public work, the entering into of contracts,
 14 the incurring of obligations, the employment of permanent and
 15 temporary workers, the utilization of volunteer workers, the rental
 16 of equipment, the purchase and distribution of supplies, materials,
 17 and facilities, and the appropriation and expenditure of public
 18 funds.

19 SECTION 8. IC 10-4-1-21 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. A person who
 21 **knowingly, intentionally, or recklessly** violates this chapter commits
 22 a Class B misdemeanor.

23 SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE
 24 JULY 1, 2003]: IC 10-4-2; IC 10-4-3; IC 34-30-2-38.3.

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